

### **REMARKS**

In the Office Action under reply, claims 1-4, 6-8, 26, 29, 46, 47, 101, 102, and 104-109 stand rejected. Claims 9-11 and 14-22 stand withdrawn as directed to nonelected species and claim 76 stands withdrawn as directed to a nonelected invention. Claims 12 and 13 are found to contain allowable subject matter.

With this response, claims 1, 13 and 109 are amended, and claims 8 and 12 canceled. Accordingly, upon entry of this amendment, claims 1-4, 6, 7, 9-11, 13-22, 26, 29, 46, 47, 101, 102, and 104-109 will remain pending.

Applicants acknowledge with appreciation the withdrawal of the grounds for rejection and/or objection from the previous Office Action.

Reconsideration is respectfully requested in light of the above amendments and the following remarks. For the Examiner's convenience, Applicants' remarks are presented in the same order in which they were raised in the Office Action.

#### **A. February 12, 2011 Telephone Interview Summary**

Applicants wish to thank Examiner Lezah Roberts for a telephone interview on February 12, 2011 with the attorney of record, Shantanu Basu. Applicants confirm that the Examiner kindly informed the applicants that finality of the Office Action will be withdrawn and prosecution will be reopened.

#### **B. Allowable subject matter of claim 12 and 13 and Amendments to Claims**

The Office Action indicates that claims 12 and 13, which are directed to mint oil as the essential oil, are allowable as the cited art did not disclose the use of mint oil in very large amounts of mint oil in compositions in the pending claims. Claims 12 and 13 would be allowed if rewritten in independent form. Applicants express their appreciation for this indication of allowability.

In response, Applicants amend claim 1 to replace the term "essential oil" with the allowable term "mint oil."

Likewise, claim 109 is amended to replace the terms "flavoring agent" and "essential oil" with the allowable term "mint oil."

Claims 8 and 12 are canceled as these are redundant in light of the claim amendments.

Claim 13 is amended to depend from claim 1 instead of the now canceled claim 12 which is now canceled.

Amendments find support in the originally filed claims and are introduced solely to put all pending claims in allowable form. No new matter is added. Entry of the amendments is respectfully requested.

With respect to claim amendments, Applicants have not dedicated to the public or abandoned any unclaimed subject matter and have not acquiesced to any rejections or objections by the Patent Office. Applicants expressly reserve the right to pursue prosecution on any presently excluded subject matter in one or more future continuation and/or divisional application(s).

**C. Claim Rejections – 35 U.S.C. §103 (obviousness)**

(i) Claims 1-4, 6-8, 26, 29, 46, 47, 102 and 104-109 stand rejected under 35 USC 103(a) as being obvious over Kigasawa *et al.* (US 4,572,832) in view of Lin *et al.* (J. Controlled Release 2001) and Kulkarni (US 2003/0206942).

(ii) Claims 1-4, 6-8, 26, 29, 46, 47, 101, 102 and 104-109 stand rejected under 35 USC 103(a) as being obvious under 35 USC 103(a) over Ventouras (US 6,183,775) in view of Lin *et al.* (J. Controlled Release 2001), Day (US 2003/0003219) and Gohlke (US 2002/0054917).

Applicants submit that in light of the amendments to independent claims 1 and 109o specify mint oil as the flavoring agent, and the allowability of “mint oil” recited in former dependent claims 12 and 13 noted in the Office Action, the grounds for these objections are moot.

Therefore, withdrawal of this ground for rejection and allowance of the pending claims, as amended, is respectfully requested.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to allow this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

The Commissioner is hereby authorized to charge any underpayments or credit any over payments in connection with this communication, including any fees for extension of time, which may be required, to Deposit Account No. 50-5132, referencing Attorney Docket No. BEN-00120US. However, an issue fee may not be charged to this account. The Examiner is invited to call the undersigned if such action might expedite the prosecution of this application.

Respectfully submitted,

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